

**MEMO ENDORSED**

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
Attorney General

CRIMINAL DIVISION
Federal Habeas Corpus Section

October 15, 2007

By Facsimile

Hon. Frank Maas
United States Magistrate Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St., Room 740
New York, NY 10007

Re: Johnson v. Artus, 07 Civ. 5905 (SAS)(FM)

Your Honor:

I am the Assistant Attorney General assigned to represent the respondent in the above-referenced habeas corpus proceeding. On July 19, 2007, the Hon. Shira A. Scheindlin issued a Rule 4 Order that requires respondent to respond to the petition on or before October 21, 2007. The Rule 4 Order states that no extensions will be granted, but, nevertheless, I must respectfully request a three-week extension in order to fully prepare the response to the petition.

A review of the state court record undertaken in preparing the response has revealed that we have no documentation of petitioner's recent motion pursuant to N.Y. C.P.L. §440 motion, and that we are missing part of the suppression hearing transcript. I apologize; I should have caught these omissions much earlier, but due to a family emergency that kept me out of the office and a backlog of cases due to staffing issues, the omission was not caught until this late date. The three-weeks requested is necessary to secure the missing transcript pages and the motion documentation, review it, and incorporate it into the record and the response. In addition, I have four other responses due within the three-week extension period. I would greatly appreciate the Court's leniency in this matter. I assure the Court, and petitioner, that, with the Court's permission, I fully intend to complete the response as soon as possible and serve and file it on or before November 12, 2007.

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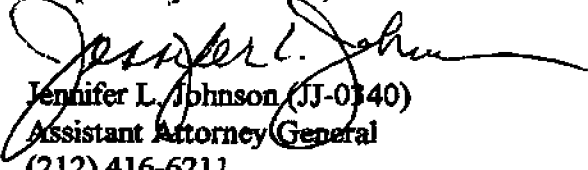
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This is the first request for an extension in this matter, because I have every intention of responding as required by the Rule 4 Order. The consent of petitioner, who is acting *pro se*, has not been sought as he is incarcerated and I want to make this request on respondent's behalf forthwith. Petitioner's time to reply to the response is not affected by this request in the sense that the Rule 4 Order directs him to reply within fifteen days of received of respondent's answer; as such, no proposed scheduling order is being submitted with this request.

In sum, respondent respectfully requests an extension of time that would allow me to file and serve the response to the petition on or before November 12, 2007.

Thank you very much for your consideration.

Respectfully submitted,


Jennifer L. Johnson (JJ-0140)
Assistant Attorney General
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So ordered
JLH
USMJ
10/15/07

Copy to:
(by Overnight Mail)

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